



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2012-0327; FRL-9763-8]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; South Carolina; Redesignation of the Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-Hour Ozone Moderate Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a request submitted on June 1, 2011, from the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), to redesignate the portion of York County, South Carolina that is within the bi-state Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina ozone nonattainment area (hereafter referred to as the “bi-state Charlotte Area,” or “Area”) to attainment for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS). The bi-state Charlotte Area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell County (Davidson and Coddle Creek Townships) in North Carolina; and a portion of York County in South Carolina, including the Catawba Indian Nation reservation lands (hereafter referred to as “the York County Area”). EPA’s approval of the redesignation request is based on the determination that South Carolina has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA or Act). Additionally, EPA is approving a

revision to the South Carolina State Implementation Plan (SIP) to include the 1997 8-hour ozone maintenance plan for the York County Area that contains the new 2013 and 2022 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NOx) and volatile organic compounds (VOC) for the years 2013 and 2022. EPA will take action on the North Carolina submission for the 1997 8-hour ozone redesignation request and maintenance plan for its portion of the bi-state Charlotte Area in a separate action. EPA did not receive comments on the November 15, 2012, proposed rulemaking.

EFFECTIVE DATE: This rule will be effective on [insert after the date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2012-0327. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal

holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann or Sara Waterson of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Spann may be reached by phone at (404) 562-9029, or via electronic mail at spann.jane@epa.gov. Ms. Waterson may be reached by phone at (404) 562-9061, or via electronic mail at waterson.sara@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. What is the Background for the Actions?**
- II. What are the Actions EPA is Taking?**
- III. Why is EPA Taking These Actions?**
- IV. What are the Effects of These Actions?**
- V. Final Action**
- VI. Statutory and Executive Order Reviews**

I. What is the Background for the Actions?

On June 1, 2011, South Carolina made a submission to EPA requesting redesignation of the York County Area to attainment for the 1997 8-hour ozone NAAQS and approval of the South Carolina SIP revision containing a maintenance plan for the York County Area. In an action published on November 15, 2012 (77 FR 68087), EPA proposed approval of South

Carolina’s plan for maintaining the 1997 8-hour ozone NAAQS and the NO_x and VOC MVEBs for the York County Area as contained in the maintenance plan. At that time, EPA also proposed to approve the redesignation of the York County Area to attainment.¹ Additional background for today’s action is set forth in EPA’s November 15, 2012, proposal.

The MVEBs, specified in kilograms per day (kg/day), included in the maintenance plan are as follows:

Table 1. York County Portion of the Bi-state Charlotte Area NO_x and VOC MVEB (kg/day)

	2013	2022
<i>NO_x Emissions</i>		
Base Emissions	7,924	4,011
Safety Margin Allocated to MVEB	3,348	7,357
NO_x Conformity MVEB	11,272	11,368
<i>VOC Emissions</i>		
Base Emissions	2,846	1,939
Safety Margin Allocated to MVEB	853	1,297
VOC Conformity MVEB	3,699	3,236

In its November 15, 2012, proposed action, EPA noted that the adequacy public comment period on these MVEBs (as contained in South Carolina’s submittal) began on October 28, 2011, and closed on November 28, 2011. No comments were received during the public comment period.

As stated in the November 15, 2012, proposal, this redesignation addresses the York County Area’s status solely with respect to the 1997 8-hour ozone NAAQS, for which designations were finalized on April 30, 2004. *See* 69 FR 23857. Effective July 20, 2012, EPA

¹ On March 7, 2012, at 77 FR 13493, EPA determined that the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS by its applicable attainment date of June 15, 2011, and that the Area was continuing to attain the ozone standard with monitoring data that was currently available.

designated a portion of York County (excluding the Catawba Indian Nation reservation lands) as nonattainment for the 2008 8-hour ozone NAAQS. This rulemaking does not address requirements for the portion of York County that was designated nonattainment for the 2008 8-hour ozone NAAQS. Requirements for the portion of York County that was designated nonattainment for the 2008 8-hour ozone NAAQS will be addressed in the future.

EPA reviewed ozone monitoring data from ambient ozone monitoring stations in the bi-state Charlotte Area from 2009-2011. These data have been quality-assured and are recorded in Air Quality System (AQS). The 3-year average of the annual fourth highest daily maximum 8-hour average (i.e., design values) for 2008-2010 and 2009-2011 are summarized in Table 2. The design values demonstrate that the bi-state Charlotte Area continues to meet the 1997 8-hour ozone NAAQS. EPA has also reviewed preliminary monitoring data for 2012, which indicate that the bi-state Charlotte Area continues to attain the 1997 8-hour ozone NAAQS.

Table 2. Design Value Concentrations for the Bi-state Charlotte Area for the 1997 8-hour ozone NAAQS (parts per million)

Location	County	Monitor ID	Annual Mean Concentrations				3-Year Design Values	
			2008	2009	2010	2011	2008-2010	2009-2011
Lincoln County Replacing Iron Station	Lincoln	37-109-0004	0.079	0.065	0.072	0.077	0.072	0.071
Garinger High School	Mecklenburg	37-119-0041	0.085	0.069	0.082	0.088	0.078	0.079
Westinghouse Blvd	Mecklenburg	37-119-1005	0.073	0.068	0.078	0.082	0.073	0.076
29 N at Mecklenburg Cab Co.	Mecklenburg	37-119-1009	0.093	0.071	0.082	0.083	0.082	0.078
Rockwell	Rowan	37-159-0021	0.084	0.071	0.077	0.077	0.077	0.075

Enochville School	Rowan	37-159-0022	0.082	0.073	0.078	0.078	0.077	0.076
Monroe Middle School	Union	37-179-0003	0.08	0.067	0.071	0.073	0.072	0.070

II. What are the Actions EPA is Taking?

In today's rulemaking, EPA is approving: (1) South Carolina's 1997 8-hour ozone maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the York County Area, including MVEBs; and, (2) South Carolina's redesignation request to change the legal designation of the portion of York County in the bi-state Charlotte nonattainment area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. The maintenance plan is designed to demonstrate that the York County Area (as part of the bi-state Charlotte Area) will continue to attain the 1997 8-hour ozone NAAQS through 2022. EPA's approval of the redesignation request is based on EPA's determination that South Carolina meets the criteria for the York County Area for redesignation set forth in CAA, sections 107(d)(3)(E) and 175A, including EPA's determination that the York County Area has attained the 1997 8-hour ozone NAAQS. EPA's analyses of South Carolina's redesignation request, and maintenance plan are described in detail in the November 15, 2012, proposed rule. *See* 77 FR 68087. EPA did not receive any comments, adverse or otherwise, on the November 15, 2012, proposed rule to redesignate the South Carolina portion of the bi-state Charlotte Area to attainment for the 1997 8-hour ozone NAAQS.

Consistent with the CAA, the maintenance plan that EPA is approving also includes 2013 and 2022 MVEBs for NO_x and VOC for the York County Area. In this action, EPA is approving these NO_x and VOC MVEBs for the purposes of transportation conformity. For required regional emissions analysis years involving 2013 and prior to 2022, the applicable

budgets will be the new 2013 MVEBs. For required regional emissions analysis years that involve 2022 or beyond, the applicable budgets will be the new 2022 MVEBs.

III. Why is EPA Taking These Actions?

EPA has determined that the York County Area (as part of the bi-state Charlotte Area) has attained the 1997 8-hour ozone NAAQS and has also determined that all other criteria for the redesignation of the York County Area from nonattainment to attainment of the 1997 8-hour ozone NAAQS have been met. *See* CAA section 107(d)(3)(E). One of those requirements is that the York County Area has an approved plan demonstrating maintenance of the 1997 8-hour ozone NAAQS. EPA is also taking final action to approve the maintenance plan for the York County Area as meeting the requirements of sections 175A and 107(d)(3)(E) of the CAA. EPA is also approving the new NO_x and VOC MVEBs for the years 2013 and 2022 as contained in South Carolina's maintenance plan for the York County Area because these MVEBs are consistent with maintenance of the 1997 8-hour ozone NAAQS in the Area. The detailed rationale for EPA's findings and actions are set forth in the November 15, 2012, proposed rulemaking and in other discussion in this final rulemaking.

IV. What are the Effects of These Actions?

Approval of the redesignation request changes the legal designation of the portion of York County in the bi-state Charlotte Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. EPA is modifying the regulatory table in 40 CFR 81.341 to reflect a designation of attainment for the county. EPA is also approving, as a revision to the South Carolina SIP, the State's plan for maintaining the 1997 8-hour ozone NAAQS in the York County Area through

2022. The maintenance plan includes contingency measures to remedy possible future violations of the 1997 8-hour ozone NAAQS, and establishes NO_x and VOC MVEBs for the years 2013 and 2022 for the York County Area.

V. Final Action

EPA is taking final action to approve the redesignation and change the legal designation of the portion of York County in bi-state Charlotte Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. Through this action, EPA is also approving into the South Carolina SIP the 1997 8-hour ozone maintenance plan for the York County Area, which includes for this Area the new NO_x MVEB for 2013 and 2022 for the York County Area of 11,272 kg/day and 11,368 kg/day, respectively. The VOC MVEB for 2013 and 2022 for the York County Area are 3,699 kg/day and 3,236 kg/day, respectively.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the Area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule grants or recognizes an exemption or relieves a restriction, and section 553(d)(3), which allows an effective date less than 30 days after publication as otherwise provided by the agency for good cause found and published with the rule. The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that

affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the State of various requirements for the York County Area. For these reasons, EPA finds good cause under 5 U.S. C. 553(d)(3) for this action to become effective on the date of publication of this action.

VI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For these reasons, these actions:

- are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,
- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the redesignation for the York County Area does have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it may have substantial direct effects on the Catawba Indian Nation as the Tribe's reservation lands are within the York County Area for the 1997 8-hour ozone NAAQS. As such, today's final action to redesignate the York County Area to attainment for the 1997 8-hour ozone NAAQS includes the Catawba Indian Nation reservation lands. Accordingly, EPA and the Catawba Indian Nation consulted on this redesignation prior to today's final action. EPA's consultation on this and other ozone SIP matters for the York County Area with the Catawba Indian Nation commenced

on October 14, 2011, and concluded on October 31, 2011. EPA further notes that today's action is not anticipated to impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: December 13, 2012.

Gwendolyn Keyes Fleming,

Regional Administrator,

Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52-[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart PP - South Carolina

2. Section 52.2120(e) is amended by adding a new entry “1997 8-hour ozone Maintenance Plan for the South Carolina portion of the bi-state Charlotte Area” at the end of the table to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(e) * * *

EPA-approved South Carolina non-regulatory provisions

Provision	State effective date	EPA approval date	Explanation
**	**	**	*
1997 8-hour ozone Maintenance Plan for the South Carolina portion of the bi-state Charlotte Area	June 1, 2011	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	Applicable to the 1997 8-hour ozone boundary in York County only (Rock Hill-Fort Mill Area Transportation Study Metropolitan Planning Organization Area)

PART 81-[AMENDED]

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. In § 81.341, the table entitled “South Carolina-1997 8-Hour Ozone NAAQS (Primary and Secondary)” is amended under “Charlotte-Gastonia-Rock Hill, NC-SC” by revising the entries for “York County (part) Portion along MPO lines” to read as follows:

§ 81.341 South Carolina.

* * * * *

South Carolina-1997 8-Hour Ozone NAAQS (Primary and Secondary)

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
**	**	**	*	
Charlotte-Gastonia-Rock Hill, NC-SC:				
York County (part) Portion along MPO lines	This action is effective [Insert date of publication in the Federal Register]	Attainment		
**	**	**	*	

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

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